

# TEWKESBURY BOROUGH COUNCIL

<b>Report to:</b>	Planning Committee
<b>Date of Meeting:</b>	Tuesday 25 October 2016
<b>Subject:</b>	Current Appeals and Appeal Decisions Update
<b>Report of:</b>	Paul Skelton, Development Manager
<b>Corporate Lead:</b>	Rachel North, Deputy Chief Executive
<b>Lead Member:</b>	Cllr D M M Davies
<b>Number of Appendices:</b>	1

## **Executive Summary:**

To inform Members of current Planning and Enforcement Appeals and of Communities and Local Government (CLG) Appeal Decisions issued September 2016.

## **Recommendation:**

To **CONSIDER** the report

## **Reasons for Recommendation:**

To inform Members of recent appeal decisions

## **Resource Implications:**

None

## **Legal Implications:**

None

## **Risk Management Implications:**

None

## **Performance Management Follow-up:**

None

## **Environmental Implications:**

None

## **1.0 INTRODUCTION/BACKGROUND**

**1.1** At each Planning Committee meeting, Members are informed of current Planning and Enforcement Appeals and of Communities and Local Government (CLG) Appeal

Decisions that have recently been issued.

## 2.0 APPEAL DECISIONS

2.1 The following decisions have been issued by the First Secretary of State of CLG:

<b>Application No</b>	15/00965/OUT
<b>Location</b>	Land Off Nup End, Ashleworth
<b>Appellant</b>	Bloor Homes Western
<b>Development</b>	Development of up to 35 dwellings on land off Nup End, Ashleworth with all matters except for "access" reserved for future consideration.
<b>Officer recommendation</b>	Refuse
<b>Decision Type</b>	Committee
<b>DCLG Decision</b>	<b>Allowed</b>
<b>Reason</b>	<p>The Inspector concluded there are a number of economic benefits of the proposed development which weigh in favour of the development and gave them significant weight. In addition there would be the social benefits of the provision of housing, some of which is affordable, and given the lack of a five year supply and the recent history of under delivery in affordable housing in the Borough he gave these benefits significant weight. He concluded that the proposal, through use of the existing facilities in the village, the relative proximity of higher order facilities and employment facilities, and the financial contribution to public transport would mean that the proposal would be in an appropriately accessible location supporting the rural community.</p> <p>However, environmentally, the Inspector considered there would be a detrimental urbanising effect on the appeal site, but the effects of this would be localised and would not impinge markedly on the overall character of the Severn Vale. The proposal he considered would not be significantly or demonstrably harmful.</p> <p>Overall, he concluded that the benefits of the development outweigh the harm to the environment and consequently material considerations are such so as to outweigh the restrictive policies of the development plan as the proposal would represent sustainable development.</p>
<b>Date</b>	08.09.16

<b>Application No</b>	15/00865/FUL
<b>Location</b>	Berrow Farm Wickridge Street Ashleworth
<b>Appellant</b>	Mr Greg Chamberlayne
<b>Development</b>	Installation of two no. biomass boilers on a concrete pad

	and the change of use of the grain store and mill house for use in association with commercial wood chip drying.
<b>Officer recommendation</b>	Minded to Permit
<b>Decision Type</b>	Committee
<b>DCLG Decision</b>	<b>Allowed &amp; Costs Refused</b>
<b>Reason</b>	<p>This application had been subject of a non-determination appeal – the Planning Committee, following a site visit had indicated to the Inspector that the application would have been permitted had the Council remained the determining authority.</p> <p>The Inspector agreed with the Council. He noted that any noise impacts must also be balanced against the benefits of the proposal. The fact that the majority of the noise generating activities from the site operations are not constant, and they take place during daytime hours only, was a material consideration. He also gave weight to the view that noise from agricultural operations within farmyards can occur on a daily basis and such operations are often uncontrolled.</p> <p>Taking the above factors into account, he considered that the noise impacts from the site operations can be adequately controlled and that the effects of the development on residential amenity are acceptable. In terms of highway matters and the recognition that Wickridge Street is narrow for most of its length, the Inspector was not persuaded (based on the evidence submitted), that these movements have or would have a significant effect on highway safety or on the convenience of other highway users. The fact that the highway authority (Gloucestershire County Council) has no objection to the development, in terms of the effect of the development on the safety of the public, added weight to his findings.</p>
<b>Date</b>	07.09.2016

<b>Application No</b>	14/01245/OUT
<b>Location</b>	Land off Aston Fields Lane, Ashchurch, Glos
<b>Appellant</b>	Robert Hitchins Limited
<b>Development</b>	Residential development (up to 550 dwellings), potential

	site for primary school, ancillary facilities, open space and landscaping. (Including means of vehicular access from Aston Fields Lane).
<b>Officer recommendation</b>	Minded to Refuse
<b>Decision Type</b>	Committee
<b>DCLG Decision</b>	Dismissed and costs dismissed
<b>Reason</b>	<p>This was a non-determination appeal where the Council had indicated that planning permission would have been refused if the Council had remained the determining authority. The appeal was recovered by the Secretary of State for Communities and Local Government to make the decision himself following a recommendation from the appointed Inspector.</p> <p>The Secretary of State agreed with the Inspector that due to poor forward visibility at various points and its narrow width, and even with the improvements proposed by the appellant, Aston Fields Lane would be unsuitable to accommodate the level of traffic that would be generated by the appeal scheme. He further agreed that the effect on highway safety at the Aston Fields Lane/Bredon Road junction would be unacceptable.</p> <p>The Secretary of State also agreed with the Inspector that because the appeal site forms part of a strategic site intended to make a major contribution to the housing and employment needs of the JCS area and Tewkesbury in particular, development on the appeal site should not be considered in isolation. He agreed that there is a pressing and early need to produce an access strategy for the A8 Site, and that it is vitally important that a comprehensive masterplan and infrastructure delivery plan is in place to guide this development. He further agreed that the putative masterplan provided by the appellant is only the first step and is deficient, and to proceed on this basis would conflict with the objectives of the emerging development plan and the Framework.</p> <p>The Secretary of State agreed with the Inspector that whilst the development of the appeal site would not prevent the development of the remainder of the A8 Site, what it does do is dictate the overall access strategy, and would result in a form of development, particularly in relation to access, that would prejudice the development of the whole of the Strategic Allocation in line with the objectives of JCS Policy SA1 and paragraph 58 of the Framework. He considered that this carried significant weight against the proposal.</p> <p>He further agreed that the adverse effects the proposal would have on highway safety and the free flow of traffic on Aston Fields Land and the junction with Bredon Road now and in the future would be severe and the absence</p>

	of a comprehensive Masterplan that provides for an access strategy and infrastructure delivery would result in significant unacceptable harm to and conflict with the objectives of the emerging JCS and the Framework as a whole.
<b>Date</b>	12.09.2016

<b>Application No</b>	15/01214/FUL
<b>Location</b>	Gander Lane Teddington Tewkesbury Glos GL20 8TT
<b>Appellant</b>	Mr G Gulwell
<b>Development</b>	Conversion of stable block to provide a single holiday let including new access.
<b>Officer recommendation</b>	Refuse
<b>Decision Type</b>	Delegated
<b>DCLG Decision</b>	Allowed
<b>Reason</b>	The appellant submitted an amended plan to utilise the existing access passing to the rear of the Dutch barn which removed the harm that could be caused by a new entrance and reduced the extent of the hardstanding that would be visible from the public footpath. Given this change, the Inspector concluded that the proposed development would not harm the character and appearance of the existing building or the Cotswold Area of Outstanding Natural Beauty.
<b>Date</b>	13.09.2016

<b>Application No</b>	15/00764/FUL
<b>Location</b>	Part Parcel 2363 Butts Lane Woodmancote
<b>Appellant</b>	Crest Nicholson (South West) Ltd
<b>Development</b>	Erection of 38 no. two, three, four and five bedroom dwellings, open space, parking, associated works and new vehicular access from Butts Lane.
<b>Officer recommendation</b>	Refuse
<b>Decision Type</b>	Committee
<b>DCLG Decision</b>	Dismissed
<b>Reason</b>	<p>In accordance with the NPPF the Inspector gave great weight to the conservation of the landscape and scenic beauty of the AONB and concluded that by extending the built form of the village, the proposal would diminish and encroach on the pleasant and distinctly rural views when seen from the roads and public footpaths in the general vicinity. Accordingly, he considered that the proposal would have a detrimental effect on the character and appearance of the AONB, conflicting with the purpose of conserving and enhancing the natural beauty of the AONB. The proposal would therefore conflict with NPPF paragraph 115.</p> <p>The Inspector recognised that the adjacent Grade II Listed Building Brook Cottage is freestanding and the appeal site seen as rising land providing a green backdrop. This setting gives the listed building a rural</p>

	<p>context as a wayside dwelling and contributes to its significance. The introduction of a housing development of the scale proposed, within this context, would have a harmful impact on the significance of this heritage asset as a development within its setting. Under NPPF paragraph 134 this harm should be weighed against any public benefits of the proposal.</p> <p>The Inspector considered that the proposed density at around 26 dph across the developable area, and the incursion beyond the village edge would result in a harmful change to the character and appearance of the village, in conflict with saved TBLP Policy GNL2 and Section 7 of the NPPF.</p> <p>The Inspector recognised the benefits that would arise from the proposal including increasing housing choice, including the provision of affordable housing, in a Borough which lacks a 5 year supply of deliverable housing land, and economic benefits in terms of job creation (direct and indirect), additional spending power and payment of the New Homes Bonus and Council Tax. He did not however consider that these would be sufficient to outweigh the harms, giving great weight to conserving the landscape and scenic beauty of the AONB and considerable weight to paying special regard to the desirability of preserving the setting of the listed building, as reflected in paragraphs 115 and 132 respectively of the NPPF. Accordingly the appeal was dismissed.</p>
<b>Date</b>	20.09.2016

**3.0 ENFORCEMENT APPEAL DECISION**

3.1 None

**4.0 OTHER OPTIONS CONSIDERED**

4.1 None

**5.0 CONSULTATION**

5.1 None

**6.0 RELEVANT COUNCIL POLICIES/STRATEGIES**

6.1 None

**7.0 RELEVANT GOVERNMENT POLICIES**

7.1 None

**8.0 RESOURCE IMPLICATIONS (Human/Property)**

8.1 None

**9.0 SUSTAINABILITY IMPLICATIONS (Social/Community Safety/Cultural/ Economic/ Environment)**

9.1 None

10.0 **IMPACT UPON (Value For Money/Equalities/E-Government/Human Rights/Health And Safety)**

10.1 None

11.0 **RELATED DECISIONS AND ANY OTHER RELEVANT FACTS**

11.1 None

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**Background Papers:** None

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**Appendices:** Appendix 1: List of Appeals received

**Appendix 1**

**List of Appeals Received**

Reference	Address	Description	Date Appeal Lodged	Appeal Procedure	Appeal Officer	Statement Due
16/00477/ful	Harvest Home Evesham Road Greet Cheltenham Gloucestershire GL54 5BH	Demolition of existing Pub and erection of 3 new 5 bedroom dwellings	07/09/2016	W	JBD	12/10/2016
16/00034/FUL	Parcel 5762 Land Adjacent Rudgeley House Cold Pool Lane Badgeworth Cheltenham Gloucestershire	Change of use of land for 2 traveller pitches, 2 mobile homes, 2 utility day rooms and 2 touring caravans for nomadic use only	05/10/2016	H	JWH	09/11/2016
16/00422/FUL	64 North Street Winchcombe GL54 5PS	Demolition of existing garage building and erection of a single dwelling with off-road parking.	06/10/2016	W	LJD	10/11/2016

#### Process Type

- “HH” Indicates Householder Appeal
- “W” Indicates Written Reps
- “H” Indicates Informal Hearing
- “ I ” Indicates Public Inquiry